



**MILPITAS CITY COUNCIL MEETING AGENDA
JANUARY 17, 2006**

**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

- I. ROLL CALL (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**
CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING
(Pursuant to California Government Code Section 54957.6)
City Negotiators: Art Hartinger, Ed Kreisberg, Carmen Valdez
Employee Organizations: Milpitas Police Officers Association (MPOA), International Association of Firefighters (IAFF), PROTECH
Under Negotiation: Wages, Hours, Benefits, Working Conditions
- III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Govt. Code Section 54957.1, including the vote on abstention of each member present**
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Councilmember Livengood)**
- VI. APPROVAL OF MINUTES (January 3, 2006)**
- VII. SCHEDULE OF MEETINGS**
- VIII. PRESENTATIONS**

Presentation:

Santa Clara Valley Water District presents the "Escaping the Constraints Award" from the "*Public Officials for Environmental Reform*" (POWR) California Water Policy (in partnership with the Water Resources Protection Collaborative)

Proclamations:

"Silicon Valley Reads Month" for Santa Clara County Library, February 2006

"Volunteer Blood Donor Month" for the American Red Cross, February 2006

"Catholic Schools Week" for the week of January 29th – February 4th, 2006

Certificates of Commendation:

Eagle Scouts: Eric Nguyen and Bryan Nguyen

IX. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

X. ANNOUNCEMENTS

XI. ANNOUNCEMENT OF CONFLICT OF INTEREST

XII. APPROVAL OF AGENDA

XIII. CONSENT CALENDAR (Items with Asterisks)

XIV. PUBLIC HEARINGS

- 1. Adopt General Plan Amendment No. GP2005-8, and Introduce Zoning Ordinance 38.767, an Amendment Which Amends Title XI, Chapter 10 (Planning, Zoning and Annexation) of the Milpitas Municipal Code (P-ZT2005-2) (Staff Contacts: Dennis Carrington, 586-3275 and Kim Duncan, 586-3283)**
- 2. Review and Approval of DeVries/Smith House Renovations for the Senior Housing Project at 163 North Main Street (Staff Contact: Felix Reliford, 586-3071)**
- 3. 2006 Citizen Options for Public Safety (COPS) Grant (Staff Contact: Police Captain Dennis Graham, 586-2502)**

XV. UNFINISHED BUSINESS

- * 4. Odor Control Comprehensive Action Plan Update (Staff Contact: Darryl Wong, 586-3345)**

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor

RA2. Roll Call

RA3. Approval of Minutes (January 3, 2006)

RA4. Approval of Agenda and Consent Calendar

***RA5. Authorize Staff to Negotiate Project Labor Agreement: New Library Parking Garage and Other Midtown Projects (Staff Contact: Greg Armendariz, 596-3317)**

RA6. Agency Adjournment

XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- * 5. Approve Mayor's Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**
- 6. Receive Presentation From Valley Transportation Authority and Request for Support of the Quarter Cent Sales Tax Scenario for Supplemental 2000 Measure A Program Funding (Contact: Vice Mayor Gomez, 586-3031; Staff Contact Jaime Rodriguez, 586-3335)**
- 7. Discussion and Action Related to Policy Regarding Speeches, Correspondence, Proclamations and Commendations (Contact: Vice Mayor Gomez, 586-3031)**

Telecommunications Commission

8. Cable Television Public Access Studio Update (Staff Contact: Bill Marion, 586-2701)

XVIII. NEW BUSINESS

- * 9. Authorize City Manager To Proceed with Acquisition of One Million Gallons Per Day Water Pollution Control Plant Treatment Plant Capacity (Capital Improvement Project No. 6104) (Staff Contact: Darryl Wong 586-3345)
- * 10. Authorize the Purchasing Agent to Dispose of Six Surplus Vehicles at Auction (Staff Contact: Chris Schroeder, 586-3161)
- 11. Report on Uncollected Developer Fees (Request of Vice Mayor Gomez; Staff Contact: Greg Armendariz, 586-3317)

XIX. ORDINANCES

- 12. Motion to Remove Ordinance No. 272, related to Public Notice Requirements for Public Works Projects, from further consideration by the City Council (Staff Contact: Steve Mattas, 586-3040)
- * 13. Waive Second Reading and Adopt Ordinance 239.5 Amending Title XI Chapter 16 Sections 16-10, 16-11, and 16-14 of the Milpitas Municipal Code - Stormwater And Urban Runoff Pollution Control (Staff Contact: Darryl Wong, 586-3345)

XX. RESOLUTIONS

- * 14. Adopt Resolution Granting Final Acceptance for the Selwyn Park Improvements, Project No. 5078 (Staff Contact: Doug DeVries, 586-3313)
- * 15. Adopt Resolution Authorizing the Filing of an Application to the State of California Integrated Waste Management Board, a Senate Bill 1346 Rubberized Asphalt Concrete Grant Program for the South Park Victoria Drive Pavement Rehabilitation, Project No. 4225 (Staff Contact: Doug De Vries, 586-3313)
- * 16. Adopt Resolution of Local Support: South Park Victoria Drive Pavement Rehabilitation, Project No. 4225 (Staff Contact: Doug De Vries, 586-3313)
- * 17. Adopt Resolution Granting Initial Acceptance of the Berryessa Creek Trail Reach 3, Project No. 5074, Federal Aid Project STPLE 5314 (001) (Staff Contact Doug DeVries, 586-3313)
- * 18. Adopt Resolution Establishing a Risk Management Program (Staff Contact: Emma Karlen, 586-3145)

XXI. BIDS AND CONTRACTS

- * 19. Approve Second Amendment to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program (Staff Contact: Darryl Wong, 586-3345)
- * 20. Authorize the City Manager to Execute an Agreement with URS Corporation Americas (URS) for Project Management Consultant Services (Staff Contact: Doug DeVries, 586-3313)
- * 21. Authorize City Manager To Execute Agreement Amendment: HMM Engineers, South Park Victoria Drive Pavement Rehabilitation, Project No. 4225 (Staff Contact: Doug DeVries, 586-3313)

- * 22. Approve Upgrade to the Police Records Management System (Staff Contact: Bill Marion, 586-2701)
- * 23. Approval of the 2005 Edward Byrne Justice Assistance Grant (JAG) Spending Plan (Staff Contact: Dennis Graham, 586-2502)
- * 24. Award the Bid for Recycling Newsletters (Staff Contact: Chris Schroeder, 586-3161)

XXII. CLAIMS AND DEMANDS

- * 25. Approve Payment Request to One Vendor (Staff Contact: Chris Schroeder, 586-3161)
- * 26. Approve Payment To The Milpitas Unified School District For "Raising A Reader" Program (Staff Contact: Bonnie Greiner, 586-3227)

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 7, 2006, AT 7:00 P.M.**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
E-mail: rpioroda@ci.milpitas.ca.gov / Fax: 408-586-3030 / Phone: 408-586-3040

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

BECOME A CITY COMMISSIONER!

Currently, there are openings on the following Commissions:
Community Advisory Commission (alternate)
Citizens Emergency Preparedness Advisory Commission
Economic Development Commission (rep. for Hotel Industry)
Recycling and Source Reduction Advisory Commission (alternate)
Telecommunications Commission

Applications are available online at www.ci.milpitas.ca.gov or outside the City Council Chambers. Contact the City Clerk's Office (586-3003) for more information.

AGENDA REPORTS

XIV. PUBLIC HEARINGS

1. **Adopt General Plan Amendment No. GP2005-8, and Introduce Zoning Ordinance 38.767, an Amendment Which Amends Title XI, Chapter 10 (Planning, Zoning and Annexation) of the Milpitas Municipal Code (P-ZT2005-2) (Staff Contacts: Dennis Carrington, 586-3275 and Kim Duncan, 586-3283)**

Background: On September 20, 2005, the City Council adopted Negative Declaration No. EA2005-3 and introduced Ordinance 38.767, which contained twenty-six (26) modifications and clarifications to the Zoning Ordinance text. On November 9, 2005, the Planning Commission recommended approval of a revised definition of “Acre, Gross” in the Glossary of the Milpitas General Plan and revised Zoning Ordinance definition for “Gross Acre.” Subsequently, staff determined additional analysis is prudent prior to adoption of the 26-item zoning text amendments and proposes to move forward with 3 of the previously reviewed text amendments: revised definition of “Gross Acre,” usable open space requirements in Multi-Family High Density (R3) zoning districts, and revision of language pertaining to the Density Bonus ordinance reflecting new State Density Bonus law. State law requires consistency between the Zoning Ordinance and General Plan, therefore staff is also recommending the previously introduced Zoning Ordinance text amendments for “Gross Acre” be modified to reflect the proposed General Plan definition of “Acre, Gross” for clarity and consistency between the documents.

Discussion:

The existing definition of “Acre, Gross” in the General Plan and “Gross Acre” in the Zoning Ordinance is **“Area of a site calculated to the centerline of bounding streets and other public rights-of-way.”** This definition assumes the development would be “new” development (such as on raw land) where roads and other rights-of-way, internal to and associated with the development, would be constructed at the same time as the development. The existing definition of Gross Acre currently provides developers with development credits (additional units) for acreage that is not under their ownership (i.e. out to the centerline of a street that has already been dedicated to the City). The purpose for this definition change is to accurately compute the density using the land lying within actual property lines.

Proposed definition of “Acre, Gross:

The definition proposed for “Acre, Gross” is **“The total area within the boundaries of a legal lot or parcel, including any area proposed to be dedicated or reserved for public right-of-way. Adjacent lands already dedicated for public right-of-way including public roadways, easements or other areas shall not be included as part of the gross acreage.”** Parklands, future streets and public easements within a project’s property lines would be included in the definition of “Acre, Gross.” This revised definition would not penalize developers of raw land and would provide development potential reflecting the true amount of developable land and the availability of already dedicated and improved facilities in redevelopment areas. Redevelopment means the construction or erection of other buildings or structures thereon, including infill development. The proposed definition would only change the method of calculating density and not change the density of any given zoning district.

The proposed zoning code amendment for the definition of “Gross Acre” (Item 5) introduced by the City Council at the September 20, 2005 meeting must be consistent with this General Plan amendment as required by state law and needs to be added to the corresponding zoning ordinance amendment going to the City Council.

Zoning Ordinance Amendments

Ordinance No. 38.767 was initiated by staff to modify the zoning code for the purpose of eliminating inconsistencies, improve its effectiveness, clarify use determinations, and simplify areas of the ordinance that have been difficult to understand and interpret. The purpose for these modifications is to improve the “use friendliness” of the zoning code.

A total of three (3) modifications and clarifications are contained within this modified package of amendments. Briefly, these are as follows:

Revise the definition of “gross acreage,”

Reduce the minimum usable open space requirement in Multi-Family High Density (R3) district,

Update the Density Bonus section.

The above text amendments are further summarized in a clean version of General Plan Amendment No. GP2005-8 and Ordinance No. 38.767 are included in the City Council’s agenda packet. The ordinance included in the Council’s agenda packets excludes underlined and struck out text but includes the above-mentioned revision.

Recommendation:

1. Adopt General Plan Amendment No. GP2005-8.
2. Waive reading beyond the title of the Zoning Amendment Ordinance
3. Introduce Ordinance No. 38.767.

2. Review and Approval of DeVries/Smith House Renovations for the Senior Housing Project at 163 North Main Street (Staff Contact: Felix Reliford, 586-3071)

Background: At its meeting on August 16, 2005, Milpitas Redevelopment Agency approved the Disposition and Development Agreement (DDA) between the Agency and MP Milpitas Affordable Housing Associates, an affiliate of Mid-Peninsula Housing Coalition to permit the development of a 103-unit Senior Housing Project (“DeVries Place”) at 163 North Main Street. Part of the senior housing project includes the renovation of the DeVries/Dr. Smith Home to be incorporated into the overall development.

The Milpitas Municipal Code Chapter XI-4 (Cultural Resources Preservation Program) requires the Parks, Recreation, and Cultural Resources Commission (PRCRC) to review renovations, modifications, or alternations to buildings and structures within any historical district or site prior to any working being conducted on the site. The DeVries/Dr. Smith Home is identified on the City of Milpitas Listing of Cultural Resources; therefore, the renovation to the structure is required to be reviewed by PRCRC.

Upon the completion of the review by PRCRC, the Cultural Resources Preservation Ordinance requires the PRCRC to make the required findings and forward their recommendation to the City Council. At its meeting on January 9, 2006, the PRCRC reviewed the proposed renovations to the DeVries/Dr. Smith House and recommended approval to the City Council based on the following findings:

Required Findings

- 1) The proposed renovations and modifications to the DeVries/Dr. Smith House will not detrimentally alter, destroy or affect any exterior architectural features to the structures and;
- 2) The proposed construction removal, rehabilitation, alternation, remodeling, excavation or exterior alternation to the DeVries/Dr. Smith House conforms to the standards as adopted by the PRCRC and City of Milpitas and will not adversely affect the character of the historical district and;
- 3) The proposed exterior construction and new improvements will not adversely affect and will be compatible with the external appearance of the existing designated improvements, buildings and structures on the site.

Mara Blitzer, Project Manager at Mid-Peninsula Housing Coalition, will be making the presentation to the City Council highlighting the major renovations proposed to the DeVries/ Dr. Smith House.

Recommendation: Approve the proposed renovations to the DeVries/Dr. Smith House as part of the overall development of the Senior Housing Project subject to the required findings as recommended by the PRCRC.

3. 2006 Citizen Options for Public Safety (COPS) Grant (Staff Contact: Police Captain Dennis Graham, 586-2502)

Background: The California State Legislature awarded \$100,000 to the City of Milpitas through the Citizen Options for Public Safety (COPS) Grant. No city matching funds are required.

Government Code sections 30061-30065 specify that these funds must be used for front line law enforcement services and must supplement and not supplant existing funding for front line law enforcement services. These funds shall be appropriated pursuant to a written request from the Chief of Police of the law enforcement agency that provides police services for that city. The request shall indicate the front line law enforcement needs of the requesting entity including the personnel and equipment that are necessary to meet those needs.

The police staff is requesting that the designated monies be used to fund the following programs: Senior Volunteer supplies; youth/parent outreach effort; DVD handcam for elder abuse interviews; anti-graffiti camera upgrade; undercover wire equipment; SuperMics for motorcycles; auto theft prevention equipment; portable surveillance cameras; community relations supplies; long rifle sights, slings and lights; digital image evidence system; training laptops; LCD projector; handpack radio multi-chargers; digital recorders; and traffic accident diagram system.

Recommendation: Approve appropriation in the amount of \$100,000 into the police operating budget.

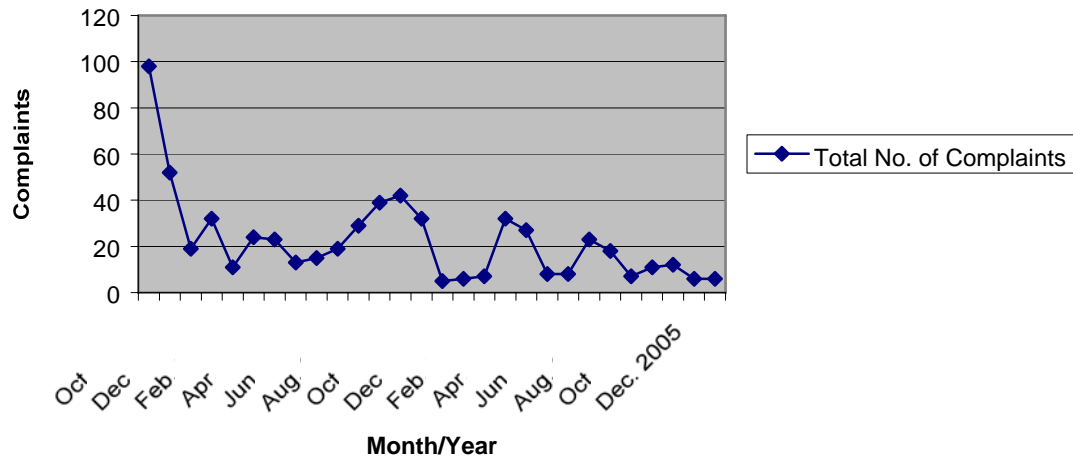
XV. UNFINISHED BUSINESS

*** 4. Odor Control Comprehensive Action Plan Update (Staff Contact: Darryl Wong, 586-3345)**

Background: Odor information continues to be made available to the public through the city's website, cable channel, radio, and flyers found at public counters at City Hall, Recreation Center and Public Works building. The Bay Area Air Quality Management District (BAAQMD) Rapid Notification e-mail system, which is used to advise of potential generation of odor incidents in real-time, was not operating because of technical difficulties between November 22 – 30, 2005. The system has been back on line since December 1, 2005. In spite of the problem, the number of complaints continues to be low.

The BAAQMD has reported the following number of complaints:
(see chart on next page)

October 2003 - January 10, 2006 Odor Complaint Summary



Recommendation: Note receipt and file progress report.

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor

RA2. Roll Call

RA3. Approval of Minutes (January 3, 2006)

RA4. Approval of Agenda and Consent Calendar

***RA5. Authorize Staff to Negotiate Project Labor Agreement; New Library Parking Garage and Other Midtown Projects (Staff Contact: Greg Armendariz, 586-3317)**

Background: At the December 6, 2005 Council Meeting, the Council expressed a concern with potential labor disputes which could arise during the construction of the new Milpitas Library and parking garage. These labor issues could cause construction delays and additional costs to the projects. It is essential that the construction of these major City projects proceed without the labor disruption that can occur on these long-term projects from both external labor relations problems and from frictions that often arise when a large number of contractors and their employees work in proximity to one another.

Project Labor Agreements (PLA) has been successfully used by government agencies to ensure a steady workforce and prohibit work stoppages due to labor issues. A PLA is essentially an agreement, which would be negotiated between the City, the labor organizations of the anticipated construction work forces and the Building Trade Council, prior to award of a construction contract. The PLA is designed to eliminate potential project delays, resulting from labor strikes, ensure a steady supply of skilled labor, and provides a contractual binding means of resolving worker grievances, while the labor work force remains engaged with the City's projects. The labor unions agree not to strike while the City's projects are under construction. The City in turn agrees to contractually require all the contractors and subcontractors that submit bids on the City's projects, to accept the PLA's terms. The City would also need to recognize that this bidding requirement could reduce the number of potential bidders which in turn could result in slightly higher bids.

The types of projects that are most appropriate for PLA's are large public capital improvement projects which have a substantial financial requirement, are technically complex, lengthy

construction period, involve numerous contractors and require several construction trades and a skilled and properly trained workforce. The City has previously experienced the negative consequences of a labor strike on the City Hall project, and the additional costs were substantial.

Based on the above, it is recommended that the Council authorize staff to negotiate and draft a Project Labor Agreement for Council approval for the new Milpitas Library, Parking garage, and Main Street Streetscape projects.

Recommendation: Authorize Staff to Negotiate Project Labor Agreement.

RA6. Agency Adjournment

XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- * **5. Approve Mayor's Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the following Milpitas residents be appointed to Commissions as noted.

Telecommunications Commission:

Reappoint Niranjan Gupta to a two-year term that expires January 2008.
Reappoint Aaron Ettinger to a two-year term that expires January 2008.
Reappoint Dinesh Gupta to a two-year term that expires January 2008.
Reappoint Vishnu Mathur to a two-year term that expires January 2008.

Appoint current Alternate #1 Satish Kumar Bansal as a Commissioner, filling a vacancy that expires in January 2007.

Appoint current Alternate #2 Syed Bilgrami to the Alternate #1 position, to a term that expires January 2007.

Appoint Roger Shaw to a two-year term as Alternate # 2, expiring January 2008.

Community Advisory Commission:

Reappoint Danny Fang to a four-year term that expires January 2010.
Reappoint Nestor Luna, Sr. to a four-year term that expires January 2010.
Reappoint Syed Mohsin to a four-year term that expires January 2010.

Appoint Heidi Hai T. Pham to a two-year term as Alternate # 4, expiring January 2008.

Senior Advisory Commission:

Reappoint Alternate #2 Kathryn Manento to a two year term that expires December 2007

Recommendation: Move to approve the Mayor's recommended Commission appointments.

- 6. Receive Presentation From Valley Transportation Authority and Request for Support of the Quarter Cent Sales Tax Scenario for Supplemental 2000 Measure A Program Funding (Contact: Vice Mayor Gomez, 586-3031; Staff Contact Jaime Rodriguez, 586-3335)**

Background: The Valley Transportation Authority (VTA) has prepared a new scenario for the distribution of funds that would be generated through a new 30-year quarter cent sales tax

measure aimed at helping to supplement funding shortfalls from the original 2000 Measure A program. The current scenario is scheduled for voting by the VTA Board of Directors on February 2, 2006.

The City of Milpitas shares a seat on the VTA Board of Directors with the City of Morgan Hill and the City of Gilroy through the Milpitas-Gilroy-Morgan Hill (MGM) City Group #4 seat. The seat is rotated annually and Milpitas' representation to the board ended in December 2005; the City of Morgan Hill is the current seat holder with the City of Gilroy as an alternate. At the January 5, 2005 VTA MGM City Group #4 meeting, both Gilroy and Morgan Hill stated that they will be going to their city councils in January to seek an official position for each of their cities to help in further discussions with Milpitas on how the MGM City Group #4 seat should vote at the upcoming VTA Board of Directors meeting.

The current sales tax scenario includes three new elements that were not originally included in the 2000 Measure A program:

1. Pavement management program funding to be distributed regionally
2. Increased senior citizen transit services - New programs are currently not defined
3. Increased public transit service through enhanced bus services

VTA staff will be available to provide further details on the proposed quarter-cent sales tax scenario during the Council meeting on January 17th. The MGM City Group #4 plans to discuss the seats' vote for the VTA Board of Directors meeting during its next meeting on Tuesday, January 31st.

Recommendation: Receive presentation from VTA on Quarter Cent Sales Tax Scenario for Supplemental 2000 Measure A Program Funding.

7. Discussion and Action Related to Policy Regarding Speeches, Correspondence, Proclamations and Commendations (Contact: Vice Mayor Gomez, 586-3031)

Background:

The City Council has requested staff to review the way we do business and look for ways to do more with less. The City Council is not an exception to this rule and should lead by example. The Council currently uses city staff for writing Mayor and Councilmember speeches, correspondence, proclamations and commendations. According to staff, .4-.5 FTE is spent on these duties - all of which the Mayor and City Councilmember could draft or write themselves.

Vice Mayor Gomez requests that the City Council adopt a policy that provides that staff no longer be responsible for these duties, unless directed by the City Council and that the manager redeploy the .4-.5 FTE to assist in areas in which there is a staff shortage.

Recommendation: Consider the Vice Mayor's request.

Telecommunications Commission

8. Cable Television Public Access Studio Update (Staff Contact: Bill Marion, 586-2701)

Background:

Under the Cable Television franchise approved by Council in June of 2005, Comcast of California/Colorado/Florida/Oregon, Inc., is providing grant funding for the construction of a Public Access Studio in the City. The Telecommunications Commission and staff have researched a number of options and believe they have found a suitable location that can be converted to a studio and will provide the capability to broadcast a number of City events. The Telecommunications Commission has reviewed the proposed location and has recommended

moving forward with a formal design. A presentation will be made regarding the conceptual plans for the studio.

Grant funding for the studio has been received. In order to utilize these funds, the grant must be accepted, a Capital Improvement Project (CIP) established and a budget appropriation approved. After these actions have been taken, the preliminary design of the studio can begin. Once the design is completed, it will be presented to Council for approval.

Recommendations:

1. Direct Staff to begin preliminary design of the Public Access Studio
2. Accept a grant in the amount of \$340,000 from Comcast Inc.
3. Approve the creation of a Capital Improvement Project (CIP) to construct the Public Access Studio
4. Approve Budget Appropriation Request to fund the CIP in the amount of \$340,000

XVIII. NEW BUSINESS

- * **9. Authorize City Manager To Proceed with Acquisition of One Million Gallons Per Day Water Pollution Control Plant Treatment Plant Capacity (Capital Improvement Project No. 6104) (Staff Contact: Darryl Wong 586-3345)**

Background: The San Jose/Santa Clara Water Pollution Control Plant (WPCP) treats wastewater from local agencies, including Milpitas, prior to discharge to South San Francisco Bay. Milpitas has an existing WPCP treatment capacity right of 12.5 million gallons per day (mgd). In 2003, Milpitas used about 10.2 mgd of its capacity rights.

The 2004 Milpitas Sewer Master Plan identified an eventual Milpitas wastewater capacity need of 13.0 mgd at current general plan land use, including Midtown, build out. The Master Plan estimates that Milpitas would exceed existing capacity of 12.5 mgd in 2015, but also states that due to variations in flows from year to year, capacity may be exceeded as early as 2010. Capacity due to additional approved and anticipated General Plan amendments is estimated at 0.1 mgd, resulting in a total capacity need to 13.1 mgd. Should the Transit Orientated Design be approved, and other General Plan amendments occur, additional capacity would be required.

One agency [West Valley Sanitation District (WVSD)] responded to a staff's inquiry on interest of sale of WPCP capacity. Council subsequently approved joint studies with WVSD to quantify, and establish a fair market price of excess WVSD capacity. As a result of the studies, WVSD has confirmed that they are willing to sell 1.0 mgd capacity right to Milpitas, that would result in a total Milpitas capacity right of 13.5 mgd. Staff recommends proceeding with the acquisition of 1.0 mgd capacity right from WVSD.

Enclosed in the Council packet is letter from WVSD stating that 1.0 mgd capacity may be available for purchase. The acquisition would need to be approved by the WPCP Treatment Plant Advisory Committee. The estimated cost of the project is \$6,950,000, including project support costs. The capital improvement program budget for the project, Project 6194, is \$6,700,000. An additional budget appropriation of \$250,000 is needed. Sufficient funds are available in the Sewer Treatment Plant fees.

Recommendation: Approve a budget appropriation of \$250,000 from Sewer Treatment Plant Fees to the Sewer Treatment Capacity Project (6104) for the estimated costs of additional capacity. Authorize the City Manager to proceed with the purchase of 1 mgd Water Pollution Control Plant capacity right from West Valley Sanitation District.

- * **10. Authorize the Purchasing Agent to Dispose of Six Surplus Vehicles at Auction (Staff Contact: Chris Schroeder, 586-3161)**

Background: The City has six (6) vehicles that have reached the end of their useful lives. These vehicles are: a 1997 Ford Crown Vic, license No. 045503, a 1994 Ford Explorer, license No. 002849, a 1997 Ford Crown Vic, License No.E989861, a 1991 Ford Explorer, license No. 340977, a 1991 Ford F250 Pickup Truck, license No. 1153017, and a 1991 Ford F250 Pickup Truck, license No. 341582. As the cost to maintain the vehicles exceeds their value, the vehicles have been removed from service. Nation Wide Auction estimates the auction value of the 1991 and 1994 vehicle ranges from \$500.00 to \$1,500.00 each, and the auction value of 1997 vehicles is approximately \$2,500.00 each. Staff requests authorization to dispose of the vehicles at auction pursuant to section I-2-10.03 of the Municipal Code “Disposal of more than \$500”.

Recommendation: Approve the request to auction the Police Vehicles.

11. Report on Uncollected Developer Fees (Request of Vice Mayor Gomez; Staff Contact: Greg Armendariz, 586-3317)

Background:

In the spring of 2004, the previous City Engineer and previous Building Official recognized that a Sewer Treatment Fee (TPF) was not collected in whole or in part from eight residential developers. The fees apparently stopped being collected after a complete turnover of the public counter staff, while the City transitioned to a then-new permit tracking system called “PT Win.” The City began this transition in June 1999. The total amount of these uncollected fees is \$768,670.

To prevent this problem from reoccurring, the process for determination and collection of fees was immediately revised in Spring 2004. The Engineering Department now calculates all the sewer treatment fees and enters the amounts due into PT Win for collection by the Building Department, as part of the building permits. Engineering also back checks the collection of fees, as part of the fee collection process.

In addition, staff is currently pursuing the collection of the outstanding fees. A staff report will be provided at the Council meeting.

Recommendation:

Receive Report on Uncollected Developer Fees.

XIX. ORDINANCES

12. Motion to Remove Ordinance No. 272, related to Public Notice Requirements Steve Mattas, 586-3040)

Background: At the time Ordinance No. 272 was introduced, the City Council directed the City Attorney to obtain and analyze the legislative history of California Public Contract Code §20134 and Government Code Section §6008. After analyzing the legislative histories of both statutes, the City Attorney’s Office concluded that the legislative history of these statutes did not support the authority of the City to rely solely on posting bids at specified locations in lieu of publication in a newspaper of general circulation. Thus, the City Attorney’s Office recommends that Ordinance No. 272 not be adopted.

Recommendation: Motion to Remove Ordinance No. 272, related to Public Notice Requirements for Public Works Projects, from further consideration by the City Council.

*** 13. Waive Second Reading and Adopt Ordinance 239.5 Amending Title XI Chapter 16 Sections 16-10, 16-11, and 16-14 of the Milpitas Municipal Code - Stormwater And Urban Runoff Pollution Control (Staff Contact: Darryl Wong, 586-3345)**

Background: Ordinance No. 239.5 was introduced at the January 3, 2006 Council meeting and is now ready for a second reading and adoption. This ordinance amendment strengthens

inspection enforcement and addresses reimbursement for spill clean-up. Key changes to the ordinance include:

1. Clarification of Accidental Discharge (Section XI-16-10)
2. Addition of reimbursement for spill -clean up (Section XI-16-11)
3. Clarification of Enforcement (Section XI-16-14)

Recommendation:

1. Waive second reading.
2. Adopt Stormwater and Urban Runoff Pollution Control Ordinance 239.5.

XX. RESOLUTIONS

- * **14. Adopt Resolution Granting Final Acceptance: Selwyn Park Improvements, Project No. 5078, (Staff Contact: Doug DeVries, 586-3313)**

Background: This project, which was initially accepted on August 3, 2004, has passed the one-year warranty period. A final inspection has been made and accepted of the public improvements that include installation of new playground equipment, rubberized play surface, basketball hoop with playing surface, picnic area and landscaping. Therefore, the Council may grant final acceptance and the contractor's bond may be released.

Recommendation: Adopt resolution granting final acceptance and release of the bond.

- * **15. Adopt Resolution Authorizing the Filing of an Application to the State of California Integrated Waste Management Board, Senate Bill 1346 Rubberized Asphalt Concrete Grant Program: South Park Victoria Drive Pavement Rehabilitation, Project No. 4225 (Staff Contact: Doug De Vries, 586-3313)**

Background: Staff is working to secure grant funds from the California Integrated Waste Management Board (CIWMB) for the use of rubberized asphalt concrete for the South Park Victoria Drive Pavement Rehabilitation Project. This project provides pavement improvements for South Park Victoria Drive. The amount of grant if awarded is approximately \$15,000. As part of the application process, it is necessary to adopt a Resolution authorizing the filing of an application for the purpose of securing grant funds and to implement and carry out the purposes specified in the grant application.

Recommendation: Adopt Resolution authorizing the filing of grant application for South Park Victoria Drive Pavement Rehabilitation, Project No. 4225.

- * **16. Adopt Resolution of Local Support for South Park Victoria Drive Pavement Rehabilitation Project No. 4225 (Staff Contact: Doug De Vries, 586-3313)**

Background: Staff is working to secure additional Federal Surface Transportation Program (STP) Funding to improve South Park Victoria Drive between Calaveras Boulevard and Yosemite Drive and Calaveras Boulevard between Park Victoria Drive and I-680 on/off ramp east. This project will provide pavement improvements for these sections of streets. The amount of available additional STP Funding is \$489,906. This will bring the total amount of grant funding to \$1,195,000 for this project. To implement this project, it is necessary to adopt a Resolution of Local Support authorizing the filing of an application for Federal Surface Transportation Program Funding for S. Park Victoria Drive Pavement Rehabilitation and offering the assurances of the City of Milpitas to complete the project. This project is currently under design and is planned for construction this summer.

Recommendation: Adopt Resolution of Local Support and authorizing the filing of a grant application for South Park Victoria Drive Pavement Rehabilitation, Project No. 4225.

- * 17. **Adopt Resolution Granting Initial Acceptance of the Berryessa Creek Trail Reach 3, Project No. 5074, Federal Aid Project STPLE 5314 (001) (Staff Contact Doug DeVries, 586-3313)**

Background: This project provided a new pedestrian bridge, site furniture, and 1.3 miles of temporary trail surfacing along Berryessa Creek. The City Council awarded the project to Bugler Construction Inc. on February 17, 2004. The project has been successfully completed, and staff recommends that Council grant an initial acceptance and authorizes the reduction of the contractor's faithful performance bond to 10% of the contract amount or \$55,069.74.

Recommendation: Adopt resolution granting initial acceptance of the project subject to the one-year warranty period and reduction of the faithful performance bond to \$55,069.74.

- * 18. **Adopt a Resolution Establishing a Risk Management Program (Staff Contact: Emma Karlen, 586-3145)**

Background: The City of Milpitas has been a participant of the Association of Bay Area Governments (ABAG) Plan self funded insurance pool since 1987. The Plan is governed by a board of directors consisting of representatives from 32 city participants. Since 1999, Finance Department had taken over the claim administrative responsibilities from the City Attorney's Office and the Finance Director has been designated as the City's Risk Manager.

To develop sound risk management practice, ABAG recommends that each participant city create a risk management structure to address the potential risk exposures of the city with visible support from City Council and management. Consequently, staff requests Council to support the establishment of a risk management program by adopting a resolution. The resolution establishes the policies under which a risk management program will be introduced and implemented with specific measures. Some of measures that will be implemented in the near future are maintenance of an up-to-date Injury & Illness Prevention Plan, establishment of a staff committee to review accidents and root causes, trending of accident claims to define action plans to address actual and potential claims, distribution of risk management goals and objectives to City employees and provision of "best practice" recommendations.

Recommendation: Adopt a Resolution establishing a Risk Management Program.

XXI. BIDS AND CONTRACTS

- * 19. **Approve Second Amendment to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program (Staff Contact: Darryl Wong, 586-3345)**

Background: This request is for approval of a second amendment to a Memorandum of Agreement (MOA) among the thirteen Regional Water Quality Urban Runoff Pollution Prevention Program discharge co-permittees, including Milpitas, in Santa Clara County. The permit requires agencies that have stormwater collection systems to manage and enforce activities to minimize pollutant discharges. The MOA serves as the basis for jointly implementing and coordinating the Santa Clara Valley Urban Runoff Pollution Prevention Program in order to maximize efficiencies, consistency, and economy-of-scale savings for evaluations, performance standard development, regional outreach, annual management plan/status submittals, and other mandated permit activities. The existing amended MOA terminates on March 10, 2006.

The proposed amendment will extend the agreement, which was originally approved by Milpitas on December 7, 1999, and amended on March 1, 2005, until any participating party elects to terminate the agreement with 30 days advanced written notice. Copies of the existing agreement, and the recommended amendment may be found in the Council's packet.

Recommendation: Approve the proposed second amendment to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program.

- * 20. **Authorize the City Manager To Execute an Agreement with URS Corporation Americas (URS), for Project Management Consultant Services (Staff Contact: Doug DeVries, 586-3313)**

Background: Considering the current volume of Capital Improvement Program, which are high priority projects infrastructure professional services during the design and construction phases, are needed. The projects involved include Montague Expressway, Berryessa Storm Drain Pump Station, Gibraltar Pump Station, and various other infrastructure Capital Improvement Projects. A partial list of the projects requiring these services, is attached as Exhibit B. The services requested include project management, support, design, estimating, drafting, scheduling, agency coordination, and construction administration.

Staff has interviewed several professional consultants in conformance with the City's consultant selection process, and recommends that URS provide these required services. URS will provide support to City staff in all phases of the projects selected. Staff has negotiated a scope and fee for these services not to exceed \$236,000, which is considered reasonable for the work. There are sufficient funds in the project budgets to cover this additional expense.

Recommendation: Authorize the City Manager to execute the agreement with URS Corporation Americas (URS) for project management fees not to exceed \$236,000 subject to approval as to form by the City Attorney.

- * 21. **Authorize the City Manager To Execute Agreement Amendment with HMM Engineers, South Park Victoria Drive Pavement Rehabilitation, Project No. 4225 (Staff Contact: Doug De Vries, 586-3313)**

Background: On February 15, 2005, the City Council awarded a consultant contract to HMM Engineers for the design of roadway reconstruction of South Park Victoria Drive between Calaveras Boulevard and Big Basin Drive. Specifically, the work includes placing rubberized asphalt concrete overlay, localized full depth asphalt concrete repairs, cold planning, replacement of traffic detector loops, sealing of cracks and replacement of painted markings.

Staff recommends that HMM Engineers perform additional services to separate current contract documents into two Phases. Phase 1 to include rehabilitation of Calaveras Boulevard between I-680 ramps to South Park Victoria Drive and on South Park Victoria Drive between Calaveras Boulevard to Yosemite Drive with construction cost estimated at \$1.2 million. Phase 1 construction is scheduled for summer of 2006. Phase 2 will include pavement resurfacing of South Park Victoria Drive between Yosemite and Big Basin Drives. Phase 2 construction will be scheduled when additional funds become available. An agreement amendment is proposed for these additional services. Staff has negotiated a scope and fee for these services not to exceed \$20,000, which is considered reasonable for the work. There are sufficient funds in the project budget to cover this additional expense.

Recommendation: Authorize the City Manager to execute the agreement amendment with HMM Engineers, in the amount of \$20,000, subject to approval as to form by the City Attorney.

- * 22. **Approve Upgrade to the Police Records Management System (Staff Contact: Bill Marion, 586-2701)**

Background: In December of 1996, the City entered into an agreement with Tiburon, Inc.(CompuDyne Public Safety) to provide a Police Records Management System (RMS). The system has been upgraded twice since the initial installation and a new version of the software has been released that offers a number of features that are of benefit to the Police Department. The new version is designed to simplify on-going maintenance and reduce long-term maintenance costs. This is accomplished through the use of a standardized set of programs with little to no

customization. Through the adoption of the standardized package, new software releases and program updates can be more easily installed in the future.

This agreement includes the software upgrade, conversion of historical data and user and system administrator training. The total cost these items is \$21,153. As Tiburon, Inc. (CompuDyne Public Safety) is the only source for this upgrade, staff is requesting that the upgrade be a sole source procurement as sanctioned in section I-2-5.03-4 of the Milpitas Municipal Code. Additionally, a new server is required to support the software upgrade and to expand storage capacity as the volume of Police reports increases. This equipment is available through the State of California "CMAS" procurement program, and is sanctioned under Municipal Code Section I-2-5.06 "Purchase Through a Governmental Entity". Cost of the hardware upgrade is \$20,686.77.

Funding for these upgrades is available in the Enhanced Public Safety CIP No. 3389 and ongoing maintenance is included in the Information Services Budget.

Recommendation:

1. Authorize the City Manager to execute an agreement with CompuDyne Public Safety & Justice Inc., in an amount not to exceed \$21,153 subject to approval as to form by the City Attorney.
 2. Approve the purchase of server hardware from Jeskell Inc., in the amount of \$20,686.77.
- * 23. **Approval of the 2005 Edward Byrne Justice Assistance Grant (JAG) Spending Plan (Staff Contact: Dennis Graham, 586-2502)**

Background: On March 15, 2005 the City Council approved the Memorandum of Understanding entitled "Interlocal Agreement, Agreement Between Cities and the County of Santa Clara, 2005 Byrne Justice Assistance Grant (JAG) Program Award." In accordance with the Memorandum of Understanding, Santa Clara County acts as the fiscal agent for the administration of JAG funds to be received by Santa Clara County, the City of Milpitas, and seven other cities. Per the terms of the JAG grant, Santa Clara County, acting as fiscal agent, took the spending plans of all jurisdictions, including Milpitas's, before a county hearing for public comments, satisfying the public hearing requirement. These funds may be used for a range of activities to prevent and control crime, including personnel, equipment and training supplies to support law enforcement and prevention programs. The City of Milpitas Police Department plans to expend the funds for the purchase of a K-9, five bicycles, Neighborhood Watch Signs and \$1,400 for a K-9 bite suit.

Recommendation: Approve appropriation in the amount of \$17,153 into the police operating budget.

- * 24. **Award the Bid for Recycling Newsletters (Staff Contact: Chris Schroeder, 586-3161)**

Background: On January 4, 2006 staff went out to bid to print and mail 14,500 recycling informational newsletters. The quotation was sent to four (4) vendors on Purchasing's vendor list; all four (4) responses are summarized below.

	Price
Folger Graphics	\$8,520.69
American Lithographers	\$17,450.00
CC Graphics	\$19,645.00
Milpitas Printing	No Response

(Sufficient funding has been allocated in the Engineering Department operating budget for this purchase.)

Recommendation: Award the bid for newsletters to Folger Graphics, Inc. as the low bidder, for the not to exceed amount of \$8,520.69.

XXII. CLAIMS AND DEMANDS

*** 25. Approve Payment Request to One Vendor (Staff Contact: Chris Schroeder, 586-3161)**

Background: In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

1. \$9,916.21 to Yellowfish Promotions for the purchase of 13,500 recycling promotional hangtags embedded with California Poppy seeds. Yellowfish Promotions represents manufacturers of specialty items. This company conducts product and pricing research of national and international manufacturers. Yellowfish was able to locate two manufacturers that could produce the hangtags. The quotes are summarized below.

	<u>Base Price</u>
Bloomin' Promotions	\$10,800.00
Symphony Line	9,045.00

(Funding for this purchase is included in Engineering operating budget.)

Recommendation: Approve the payment request to Yellowfish Promotions for the not to exceed amount of \$9,916.21 including shipping and tax.

*** 26. Approve Payment to the Milpitas Unified School District For "Raising A Reader" Program (Staff Contact: Bonnie Greiner, 586-3227)**

Background: At the September 2, 2003, meeting of the Milpitas City Council, the City Council authorized staff, in cooperation with the Milpitas Unified School District (MUSD), to explore the feasibility of a pilot "Pre-Kindergarten Education Kit Program". Beginning in the fall of 2003, City Staff and MUSD Staff met in joint committee meetings to investigate the feasibility of a "Pre-Kindergarten Education Kit Pilot Program." Through program comparisons, it was agreed upon to implement the Raising A Reader® (RAR) program, which is a take-home book bag program that uses a multilingual, multicultural approach to encourage parents and guardians to read or share stories daily with their young children. The program helps educate parents and guardians about why exposure to books is important for school success and provides them with the tools and materials they need to make daily reading practical in their homes.

In FY 2004/2005, this 20-hour per week position was filled with a School Readiness Coordinator, who is responsible for designing, implementing and coordinating the City/ MUSD managed school readiness pilot project using the Raising A Reader program. While the City of Milpitas funds the staffing and supplies and MUSD provides operational services such as a workspace, computer, phone, email, and space to run the program. Recreation Services supervises the position and program, while MUSD Educational Services staff provides program direction and MUSD evaluation requirements.

At the November 17, 2005, City/ MUSD meeting it was recommended that the RAR position be completely monitored and supervised by the Milpitas Unified School District. It has been a challenge to have an employee supervised by the City; while the programming is dictated by the MUSD needs and anticipated results. City and MUSD Staff both agree that it would be beneficial to have the School Readiness Coordinator work solely and in conjunction with the MUSD staff to truly see the results of the Raising A Reader Program. The Raising A Reader program was funded in the approved FY 05/06 Recreation Services Preschool Budget; \$15,300 is budgeted in Temporary Salaries and \$3,500 is budgeted in Supplies for refresher materials and program

supplies. The City will continue their financial obligation through the remaining of the fiscal year from February 1 through June 30, 2006, with the program to be reevaluated prior to the FY 2006-07 budget hearing.

Recommendation: Approve payment of \$9,245 to the Milpitas Unified School District for the continued implementation and supervision of the Raising A Reader program for the remaining months of the fiscal year.

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 7, 2006, AT 7:00 P.M.**